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EXAMINER

LONSBERRY, HUNTER B

ART UNIT	PAPER NUMBER
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2623

DATE MAILED: 07/14/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/706,684

Applicant(s)

MAETZ ET AL.

Examiner

Hunter B. Lonsberry

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 April 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed 4/27/06 have been fully considered but they are not persuasive.

Applicant argues that the interpretation of "concatenated" set forth by the Examiner is inconsistent with the ordinary an accepted definition of the word. Neither Knee nor Knudson mentions "concatenate" and neither accomplishes that function. Applicant cites definitions of concatenate as "to link together in a series or chain." "to link together or join. For example, concatenating the three words in, as and much, yields the single word inasmuch. --- You can concatenate files by appending one to another." "In formal language theory (and therefore in programming language) concatenating is the operation of joining two character strings end to eng. For example, the strings "foo" and "bar" may be concatenated to give "foobar."

Applicant further argues that Knudson does not teach and teaches away from concatenating successive versions of the summaries, but rather teaches that the program guide stores new, real time data that has been provided to the program guide in the database to replace the data that has expired. Knudson states that the earlier version of data, rather than being concatenated with successive versions of data is removed or purged or deleted or cleared out (amendment Pages 7-9).

Regarding Applicants argument, the Examiner disagrees. As noted in the previous office action, Knee is relied upon to teach “concatenating partial dynamic summaries received in the memory of the receiver, the upgradeable summary of said event being the result of the concatenating of the versions” (column 40, lines 42-55, column 44, lines 22-33, Figure 47). In particular, Knee discloses that sports scores and information by be broken down for disjoint periods of times, such as scores by quarter, halftime, leading scorers, key injuries etc, see column 44, lines 15-33, column 43, lines 21-54, column 46, lines 33-44, 56-column 47, line 18. Quarters, innings, halves and the like are disjoint periods of time, that is to say they are not a single continuous time period. Instead they are discrete time segments. Thus concatenating takes place by joining together the scoring information by time period (quarter halftime, etc). Additionally, Knee discloses that the stored schedule information is combined with the scoring information received via a data feed (column 43, lines 33-44, figures 50-52), this meets applicants definition of “concatenating” as the information is linked together and displayed. Further the teachings of Knee meet the claim limitations of being dynamic and upgradeable, as the summaries change as the receiver retrieves new information related to the game in real time.

The Examiner is confused as to how, joining together data does not meet Applicant’s definition of the term “concatenating”, when Knee clearly appends (again a definition presented by Applicant) the scoring information to the EPG information.

What Knee fails to teach is Knee fails to disclose concatenating successive versions of summaries, and displaying the summary in a window of a screen at the

receiver. Knee doesn't say if the information is combined, replaced in its entirety or what exactly happens to the previously received versions.

Knudson discloses transmitting successive versions of sports score to a user, as well as provides updates on demand to a user and game recap information (column 17, line 26-column 18, line 60). Further Knudson discloses that the updated information may be updated scores. Knudson does not disclose retransmitting the entirety of the data entry, rather that scoring information may have an expiration time after which the score data (not the rest of the event information) is replenished. Thus the data is concatenated as there is a combination of the new data (scores) and the old data.

Therefore, it is the combination of the concatenating partial dynamic summaries of Knee (real time updated sport scores by quarter, halftime, inning etc) in combination of the successive versions of the sports scoring information of Knudson (retransmitting only the updated information rather than the entire event) which teaches "concatenating partial dynamic summaries successively received in a memory of the receiver, the upgradeable summary of the said event being the result of the concatenating of the successive partial dynamic summaries."

The Examiner notes that the claims require "concatening partial dynamic summaries successively received in the memory of the receiver, the upgradeable summary being the result of the concatenating of the successive partial dynamic summaries." As noted above the concatenation disclosed in the combination of Knee and Knudson is appending of new scoring data, to previously received listing data, which includes the name of the event and the teams of the event. This newly updated

score data is a partially dynamic summary as the entire event summary is not retransmitted, merely the scoring portion of the summary is retransmitted, therefore, Knudson does not teach away from Knee.

Applicant argues that Machida does not disclose or suggest that partial dynamic summaries of an event are transmitted, that the content of a partial dynamic summary depends on the content of the event occurring since the transmission of the previous partial dynamic summary up to the instant of transmission of the current partial dynamic summary or that the upgradeable summary of the event is the result of concatenating of the successive partial dynamic summaries. The information in Machida is updated only when a version is called up and it is not the same as was previously viewed by that user. Like Knudson each old version is erased when a new version is read into the user's storage medium. Neither does Machida disclose if the version numbers are consecutive. This is not what was is presently claimed (pages 9-11).

Regarding applicant's argument, Knee and Knudson are relied upon to teach the features argued by applicant. Instead, Machida is relied upon to teach the use of version numbers, in conjunction with Official Notice with consecutive version numbers. Machida's version numbers enable a user to keep track of when a version of the data was received to track the progress of a sporting event. Consecutive version numbers allow a user to easily understand the version history of an application or data record.

Thus Machida and the official notice, in combination with Knee and Knudson teach each and every element of the claims.

Applicant argues there is no motivation to combine, and that the rejections are not properly made out in that there is a total lack of any disclosure of "concatenation" and such is feature is taught away from, that hindsight was used and that Machida is not combinable with Knee and Knudson, and from the teachings of Machida, one skilled in the art is simply not aware that there is any reason to be concerned with storing versions in Knee or Knudson. Without such an awareness, the skilled artisan would not be motivated to modify the teachings of Knee or Knudson to somehow combine them with Machida. (Pages 11-13).

In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention

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where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, the combination of Knee and Knudson discloses a system in which updates to a number of sporting events are received at a user's set top terminal. The combination of Knee and Knudson is silent regarding an identifier and display of time and version information. Machida discloses an EPG system in which the EPG data has time and data information, as well as a version attribute 130, a STB utilizes this information to determine how "fresh" the data is (column 14, lines 30-44, column 24, line 60-column 25, line 19), thus ensuring that a user receives the most update information, and enabling a user to keep track of the data in order to track the progress of the sporting event. Therefore, it would have been obvious to one skilled in the art at the time the invention was made to modify the combination of Knee and Knudson to utilize the version attribute of Machida thus enabling a user to keep track of when a version of the data was received to track the progress of a sporting event.

Applicant argues that the Examiner is not free to discard the Machida's teachings that relate to the version information being a record, not of what is taking place in an event that is being received, but rather relate to actions by the user each time a user uses any application. It can therefore be readily be seen that the disclose in Machida in

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versions is in no way combinable with Knee or Knudson to render the presently claimed invention obvious (page 13).

Regarding Applicant's argument, the Examiner disagrees. Knee and Knudson are relied upon to teach upgradeable summaries of an event. Machida utilizes timestamps associated with the data to determine a version number, thus a version number is transmitted.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1,2, 4-6, and 9-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 5,589,892 to Knee in view of U.S. Patent 6,536,041 to Knudson.

Regarding claims 1 and 4, Knee discloses a process for transmitting service information in a television system comprising transmitter, which transmits data over input 11 to a receiver (figure 1),

transmitting an event (a "sports program" column 41, lines 34-60);

transmitting successive partial dynamic summaries relating to disjoint times (games scores, sports information such as updated game scores, detailed team specific information, and related interactive services etc, sports scores and information by be broken down for disjoint periods of times, such as scores by quarter, or at halftime, column 44, lines 15-33) of the said event, the content of a current version of the dynamic summary being dependent on the content of the event occurring since the transmission of the previous version of the summary up to the instant of transmission of the current version of the dynamic summary (column 41, lines 56-59, column 42, lines 33-58, figures 48, 52);

and at the receiver 605 (figure 58),

presenting an upgradeable summary of said event being the result of concatenating of the versions within a buffer 15 (summaries are illustrated in figures 50, 52 and 54, column 43, lines 21-54, column 44, lines 16-33, column 46, lines 33-44, 56-column 47, line 18)

and at the level of the receiver of:

concatenating partial dynamic summaries received in the memory of the receiver, the upgradeable summary of said event being the result of the concatenating of the versions (column 40, lines 42-55, column 44, lines 22-33, Figure 47).

Knee fails to disclose concatenating successive versions of summaries, and displaying the summary in a window of a screen at the receiver.

Knudson discloses that successive versions of a dynamic summary (updated sports scores) of a sporting event are transmitted from a real-time source to a user set top device at a regular interval (column 17, lines 26-45, 53-62, column 18, lines 4-31, figure 20), the summary information is displayed in a window (controllable ticker in figures 14a,27a/b), thus enabling a user to track the progress of a sporting event with the most up to date information available while viewing the event.

Therefore, it would have been obvious to one skilled in the art at the time of invention to modify Knee to utilize the successive versions of the summaries and display the summary information in a window to a user, as taught by Knudson, thus enabling a user to track the progress of a sporting event with the most up to date information available while viewing the event.

Regarding claim 2, Knee discloses that periodically, following the occurrence of a particular situation in the content of an event, an updated version is transmitted to a user. (column 45, lines 60-column 46, line 16).

Knudson is relied upon to teach transmission of successive versions.

Regarding claim 5 and 6, Knee discloses that the retrieval of real time data occurs when a user enters a sports mode of the EPG application residing on the STB (column 46, line 46-column 47, line 18).

Regarding claim 9, Knee discloses a receiver for receiving service information in a television system, comprising:

- receiving means for receiving events (sports games) and versions of an upgradeable dynamic summaries of the said event (summaries shown Figures 50, 52, and 54, which are games scores, detailed team specific information, and related interactive services, sports scores and information by be broken down for disjoint periods of times, such as scores by quarter, or at halftime, column 44, lines 15-33) via a virtual channel (column 44, line 66-column 45, line 16);

- means for concatenating versions successively received (column 41, lines 34-62, column 42, lines 45-53, column 43, lines 29-32, column 44, lines 22-33, column 46, line 56-column 47, line 18), the upgradeable summary of the said event being the result of the concatenating of the versions of dynamic summaries (column 41, lines 56-59, column 42, lines 33-58, figure 48, figure 50, column 43, lines 21-54, column 44, lines 16-33, column 46, lines 33-44, 56-column 47, line 18);

- memory means 18 for storing the upgradeable summaries in the receiver (figure 47, column 4, lines 11-20) ;

- display means 33 for displaying the upgradeable summaries (figure 47).

Knee inherently transmits different versions of the real time data, as different versions of the data are required for a game being watched in real time to keep a user updated as to the current score, quarter or time remaining.

Knee fails to disclose concatenating successive versions of summaries.

Knudson discloses that successive versions of a dynamic summary (updated sports scores) of a sporting event are transmitted from a real-time source to a user set top device at a regular interval (column 17, lines 26-45, 53-62, column 18, lines 4-31, figure 20), the summary information is displayed in a window (controllable ticker in figures 14a,27a/b), thus enabling a user to track the progress of a sporting event with the most up to date information available while viewing the event.

Therefore, it would have been obvious to one skilled in the art at the time of invention to modify Knee to utilize the successive versions of the summaries and display the summary information in a window to a user, as taught by Knudson, thus enabling a user to track the progress of a sporting event with the most up to date information available while viewing the event.

Regarding claim 10, Knee discloses that the sports score info is presented to a user when a user enters sports browse mode (column 46, line 46-column 47, line 18).

Regarding claim 11, Knee discloses that when the data feed is accessed to provide information for a game currently in progress, microcontroller 16 causes VDG 23 to display the current score, and time remaining for a basketball, football or hockey game (column 44, lines 22-29), data is detected and extracted by VBI decoder 30a (Figure 47, column 40, lines 42-55, column 46, line 56-column 47, line 18).

Regarding claim 12, Knee discloses a transmitter for transmitting service information in a television system, wherein it comprises:

- means for transmitting an event (a sports program, column 41, lines 34-60);
- means for transmitting versions of an upgradeable dynamic summary of the said event (updated sports scores and other sports related information, figures 50, 52, and 54, column 41, lines 34-62, column 42, lines 45-53, column 43, lines 29-32, column 44, lines 22-33, column 46, line 56-column 47, line 18), the content of a current version of the summary being dependent on the content of the event occurring since the transmission of the previous version of the dynamic summary up to the instant of transmission of the current version of the dynamic summary (figure 50, column 43, lines 21-54, column 44, lines 16-33, column 46, lines 33-44, 56-column 47, line 18, sports scores and information by be broken down for disjoint periods of times, such as scores by quarter, or at halftime, column 44, lines 15-33), the concatenating of the dynamic summaries providing an upgradeable summary of the said event (the newly updated scores provide the updated dynamic summary).

Knee fails to disclose concatenating successive versions of summaries, and displaying the summary in a window of a screen at the receiver.

Knudson discloses that successive versions of a dynamic summary (updated sports scores) of a sporting event are transmitted from a real-time source to a user set top device at a regular interval (column 17, lines 26-45, 53-62, column 18, lines 4-31, figure 20), the summary information is displayed in a window (controllable ticker in

figures 14a,27a/b), thus enabling a user to track the progress of a sporting event with the most up to date information available while viewing the event.

Therefore, it would have been obvious to one skilled in the art at the time of invention to modify Knee to utilize the successive versions of the summaries and display the summary information in a window to a user, as taught by Knudson, thus enabling a user to track the progress of a sporting event with the most up to date information available while viewing the event.

Regarding claim 13, Knee discloses that periodically, following the occurrence of a particular situation in the content of an event, an updated version is transmitted to a user. (column 45, lines 60-column 46, line 16).

3. Claims 3, 7, 8, and 14-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 5,589,892 to Knee in view of U.S. Patent 6,536,041 to Knudson in further view of U.S. Patent 6,035,304 to Machida.

Regarding claims 3, 7 and 8, Knee discloses that a real time data feed may provide sports information.

The combination of Knee and Knudson is silent regarding an identifier and display of time and version information.

Machida discloses an EPG system in which the EPG data has time and data information, as well as a version attribute 130, a STB utilizes this information to

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determine how “fresh” the data is (column 14, lines 30-44, column 24, line 60-column 25, line 19).

Therefore, it would have been obvious to one skilled in the art at the time the invention was made to modify the combination of Knee and Knudson to utilize the version attribute of Machida thus enabling a user to keep track of when a version of the data was received to track the progress of a sporting event.

Regarding claims 14 and 15, Knee discloses that a real time data feed may provide sports information.

The combination of Knee and Knudson is silent regarding a version descriptor and the values of the numbers associated two consecutive versions being consecutive.

Machida discloses an EPG system in which the EPG data has time and data information, as well as a version attribute 130, a STB utilizes this information to determine how “fresh” the data is (column 14, lines 30-44, column 24, line 60-column 25, line 19).

Therefore, it would have been obvious to one skilled in the art at the time the invention was made to modify the combination of Knee and Knudson to utilize the version attribute of Machida thus enabling a user to keep track of when a version of the data was received to track the progress of a sporting event.

Machida does not disclose if the version numbers are consecutive.

The examiner takes official notice that the use of consecutive version numbers is notoriously well known in the art. For example MS-DOS versions 6.0, 6.1 and 6.2.

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Consecutive version numbers allow a user to easily understand the version history of an application or data record.

Therefore it would have been obvious to one skilled in the art at the time of invention to modify the combination of Knee, Knudson and Machida to utilize consecutive version numbers in order to make it easier for a user to track the version history of the supplied data.



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